IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.1539 of 2007
DATE OF ORDER: 22.3.2007

Maan Singh and Others

...Petitioner(s)

Versus

Nanaksar Ashram (Regd)

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. H.S. Dhindsa, Advocate and

Mr. V.S. Rana, Advocate.

M.M. AGGARWAL,J

This is petition against order dated 17.2.2007 passed by Civil Judge (Jr.Divn.), Ludhiana whereby request of the petitioners-defendants for rejection of plaint under Order 7 Rule 11 CPC was dismissed.

On behalf of the petitioner, it is argued that the plaintiff-respondent had alleged itself to be trust and suit was filed by two of the trustees and that it is unregistered trust and that all the trustees could file the suit and not two of the trustees.

There are stated to be as many as five trustees.

Counsel for the petitioner argues that the trust is not legal entity. It is argued that in the alternative issue regarding maintainability should have been treated preliminary. Counsel for the petitioner has relied on judgments reported in Murti Vaishnu Mata alias Durga Mata v. Vaishnu Dutt, 1997(1) CCC 528 (P&H), 528 and Mandir Jamuna Dass Jawaharlal S Sanatam Dharam Mahabir Dal Trust v. Shankar Dass, 2003(1) RCR (Rent), 582.

Trial Court had observed vide impugned order that there is already an issue regarding maintainability and case is fixed for cross-examination of witnesses and had disallowed the application.

I do not find any good ground to interfere.

Dismissed.

March 22, 2007
manoj

(M.M. AGGARWAL)
JUDGE